



To the Honorable Council
City of Norfolk, Virginia

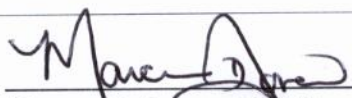
July 12, 2016

From: George M. Homewood, FAICP, CFM, Planning Director

Subject: **Special Exception for the sale of alcoholic beverages for off-premises consumption at 240 E. Main Street – Corks and Caps**

Reviewed: 
Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/6

Approved: 
Marcus D. Jones, City Manager

Item Number: **R-8**

- I. **Staff Recommendation:** Approval.
- II. **Commission Action:** By a vote of **5 to 0**, the Planning Commission recommends **Approval**.
- III. **Request:** Special Exception for the sale of alcoholic beverages for off-premises consumption.
- IV. **Applicant:** Melanie Nusbaum
- V. **Description:**
 - The site is located Downtown on East Main Street, west of the intersection of East Main Street and Atlantic Street.
 - The applicant proposes to offer beer and wine for off-premises consumption at a new establishment, named Corks and Caps, within a currently vacant suite.

	Proposed
Hours of Operation and for the Sale of Alcoholic Beverages for Off-Premises Consumption	10:00 a.m. until 10:00 p.m., Seven days a week
Off-Premises Alcohol Types	Beer and wine


- VI. **Historic Resources Impacts**
The building is not located within a federal, state, or local historic district.
- VII. **Public Schools Impacts**
The site is located in the Tidewater Park Elementary School, Blair Middle School and Maury High School Attendance Zones.


Staff point of contact: Chris Whitney at 823-1253, chris.whitney@norfolk.gov

Attachments:

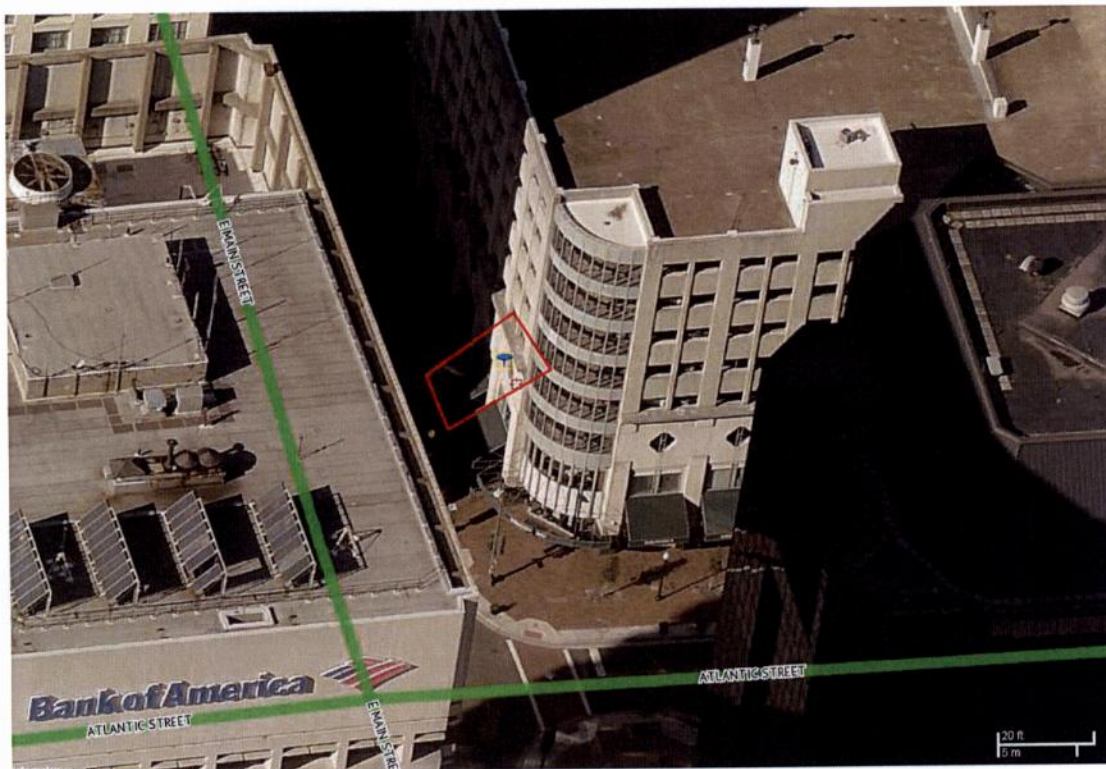
- Staff Report to CPC dated June 23, 2016 with attachments
- Proponents and Opponents
- Ordinance

Planning Commission Public Hearing: June 23, 2016

Executive Secretary: George M. Homewood, FAICP, CFM 

Planner: Chris Whitney, CFM 

Staff Report	Item No.	15
Address	240 East Main Street	
Applicant	Corks and Caps	
Request	Special Exception	Sale of Alcoholic Beverages for Off-Premises Consumption
Property Owner	City of Norfolk	
Site Characteristics	Site Area/Space	44,475 sq. ft./1,377 sq. ft.
	Future Land Use Map	Downtown
	Zoning	D-2 (Downtown Regional Center District)
	Neighborhood	Downtown
	Character District	Downtown
Surrounding Area	North	D-2: Slover Library
	East	D-2: Schlotzsky's
	South	D-2: Marriott Hotel, Shula's 347 Grill
	West	D-2: Hairways barber shop



A. Summary of Request

- The site is located Downtown on East Main Street, west of the intersection of East Main Street and Atlantic Street.
- The applicant proposes to offer beer and wine for off-premises consumption at a new establishment, named Corks and Caps, within a currently vacant suite.

B. Plan Consistency

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as Downtown.

C. Zoning Analysis

i. General

The site is located in the D-2 district, which permits the proposed use by special exception.

	Proposed
Hours of Operation and for the Sale of Alcoholic Beverages for Off-Premises Consumption	10:00 a.m. until 10:00 p.m., Seven days a week
Off-Premises Alcohol Types	Beer and wine

ii. Parking

The site is located within the D-2 zoning district, which does not require off-street parking.

iii. Flood Zone

The property is located in the X (Low to Moderate) and X (Shaded) Flood Zones, which are low-risk flood zones.

D. Transportation Impacts

- No new trips are forecast related to the proposed addition of off-premises alcohol sales at this existing retail location.
- This downtown site has good transit accessibility served with both frequent bus service and also light rail available at the nearby MacArthur Square station.
- Main Street adjacent to the site is not an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

E. Historic Resources Impacts

The building is not located within a federal, state, or local historic district.

F. Public Schools Impacts

The site is located in the Tidewater Park Elementary School, Blair Middle School and Maury High School Attendance Zones.

G. Environmental Impacts

There are currently no opportunities for landscaping site improvements to this existing site.

H. AICUZ Impacts

N/A

I. Surrounding Area/Site Impacts

This site is located Downtown, which encourages this type of retail use.

J. Payment of Taxes

This property is owned by the City and is non-taxable.

K. Civic League

- Notice was sent to the Downtown Norfolk Civic League and Downtown Norfolk Council on May 11.
- An email of no objection was received from the Downtown Norfolk Civic League on May 11.

L. Communication Outreach/Notification

- Legal notice was posted on the property on May 17.
- Letters were mailed to all property owners within 300 feet of the property on June 9.
- Legal notification was placed in *The Virginian-Pilot* on June 9 and June 16.

M. Recommendation

Staff recommends **approval** of the special exception request subject to the conditions below:

- (a) The hours of operation for the sale of alcoholic beverages for off-premises consumption shall be limited to 10:00 a.m. until 10:00 p.m., seven days a week.
- (b) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (c) No alcoholic beverages other than those defined as "beer," "wine," "wine cooler," or "low alcohol beverage cooler," as defined by state law, shall be sold.
- (d) No alcoholic beverage having more than 21% alcohol by volume shall be sold.
- (e) No beer shall be sold in any package containing fewer than six (6) bottles or cans, with the exception of those bottled beers which are exclusively produced in

bottles greater than 12 ounces but less than 32 ounces in size. No wine shall be sold in containers less than 375 ml each.

- (f) The facility shall maintain a current, active business license at all times while in operation.
- (g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (h) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (i) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- (j) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, solid waste, snow, ice, and any bodily discharge.
- (k) At all times, all temporary window signage must comply with the applicable regulations of Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), entitled "Signs."

Attachments

Location Map

Zoning Map

1000' radii map of similar ABC establishments and Norfolk Public Schools

Application

Notice to the Downtown Norfolk Civic League and Downtown Norfolk Council

Email of no objection from the Downtown Norfolk Civic League

Proponents and Opponents

Proponents

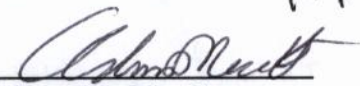
None

Opponents

None

Form and Correctness Approved: 

Contents Approved: *CW*

By 
Office of the City Attorney

By 
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION AT AN ESTABLISHMENT KNOWN AS "CORKS AND CAPS" ON PROPERTY LOCATED AT 240 EAST MAIN STREET.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Corks and Caps, LLC authorizing the sale of beer and wine for off-premises consumption at an establishment known as "Corks and Caps" on property located at 240 East Main Street. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 280 feet, more or less, along the northern line of East Main Street and 154 feet, more or less, along the western line of Atlantic Street; premises numbered 240 East Main Street.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the sale of alcoholic beverages for off-premises consumption shall be limited to 10:00 a.m. until 10:00 p.m., seven days per week.
- (b) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.

- (c) No alcoholic beverages other than those defined as "beer," "wine," "wine cooler," or "low alcohol beverage cooler," as defined by state law, shall be sold.
- (d) No alcoholic beverage having more than 21% alcohol by volume shall be sold.
- (e) No beer shall be sold in any package containing fewer than six (6) bottles or cans, with the exception of those bottled beers which are exclusively produced in bottles greater than 12 ounces but less than 32 ounces in size. No wine shall be sold in containers less than 375 ml each.
- (f) The facility shall maintain a current, active business license at all times while in operation.
- (g) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to any such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (h) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (i) A copy of this Special Exception ordinance and "Exhibit A" shall be available on site at all times for inspection, and a notice indicating that this

Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

- (j) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, and both solid and liquid waste.
- (k) At all times, all temporary window signage must comply with the applicable regulations of Chapter 16 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), entitled "Signs."

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to

interfere with the use and development of neighboring property in accordance with the applicable district regulations;

- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:
Exhibit A (2 pages)



EXHIBIT "A"
Description of Operations
Off-Premises Sale of Alcoholic Beverage

Date of Application: May 4, 2016

Name of business: Corks & Caps

Address of business: 240 East Main Street, Norfolk Virginia 23510

Name(s) of business owner(s)*: Melanie & Michael Nusbaum -dba Corks and Caps, LLC

Name(s) of property owner(s)*: City of Norfolk

Name(s) of business manager(s)/operator(s): Melanie & Michael Nusbaum

Daytime telephone number (757) 348-8581

*If business or property owner is partnership, all partners must be listed.

*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility

Weekday From 10:00 To 10:00

Friday From 10:00 To 10:00

Saturday From 10:00 To 10:00

Sunday From 10:00 To 10:00

Alcoholic Beverage Sales

Weekday From 10:00 To 10:00

Friday From 10:00 To 10:00

Saturday From 10:00 To 10:00

Sunday From 10:00 To 10:00

2. Type of alcoholic beverage applied for:

☒ Beer ☐ Wine ☐ Mixed Beverage

3. Alcoholic beverages to be sold:

☐ Room temperature ☒ Refrigerated

DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508

Norfolk, Virginia 23510

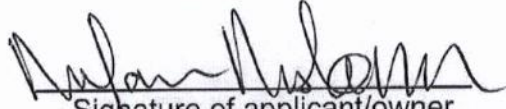
Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)

Exhibit A – Page 2
ABC-Off

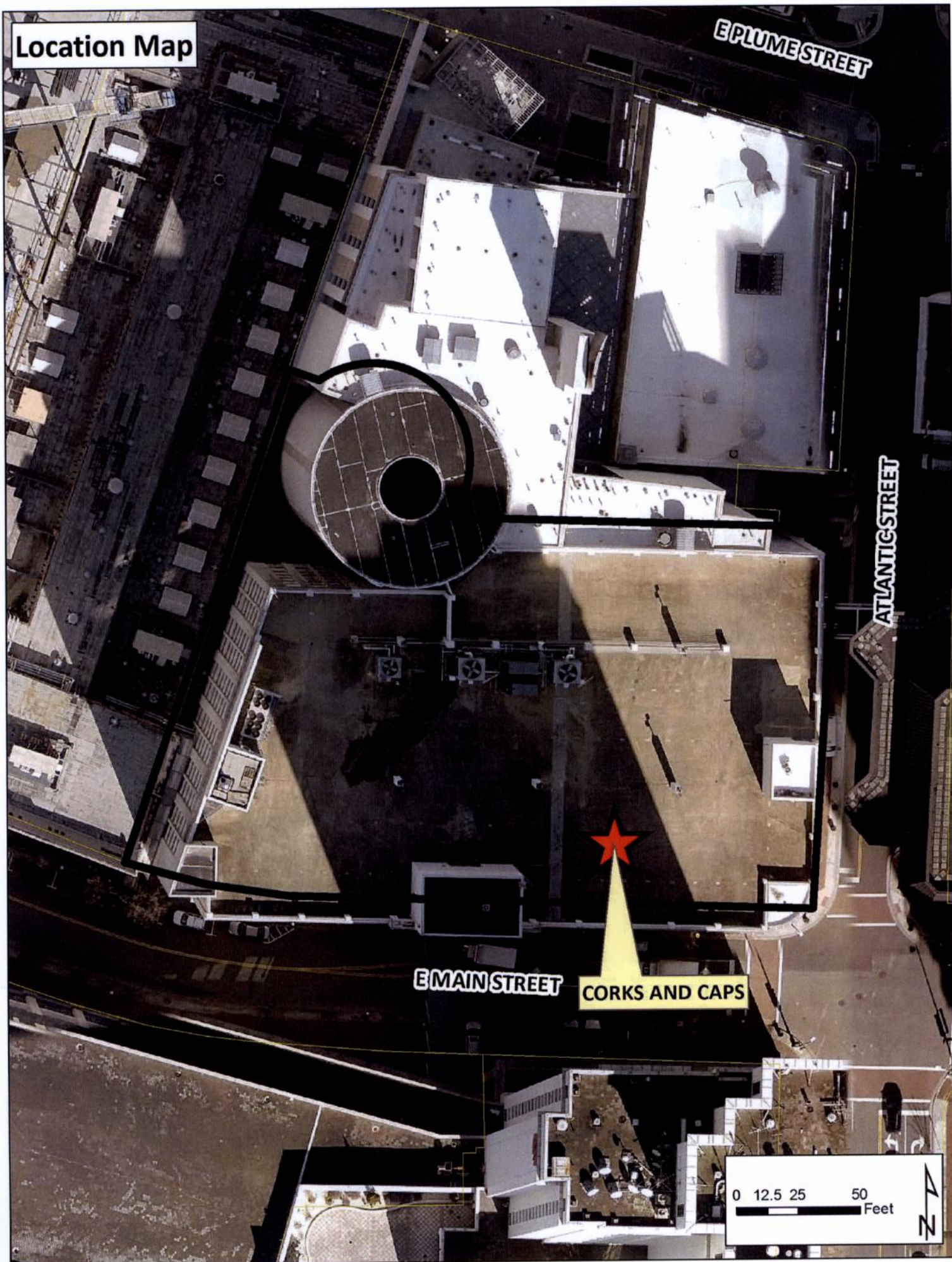
4. As a general rule, the City does not approve selling beer in a single-sized serving container or selling wine in a bottle that is less than 375 milliliters. If you are seeking approval to sell servings that do not meet these criteria, please explain your justification as well as indicate what sizes you would sell:

We do not sell singles of beer, nor any wine less than 375 ml.

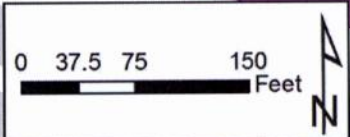
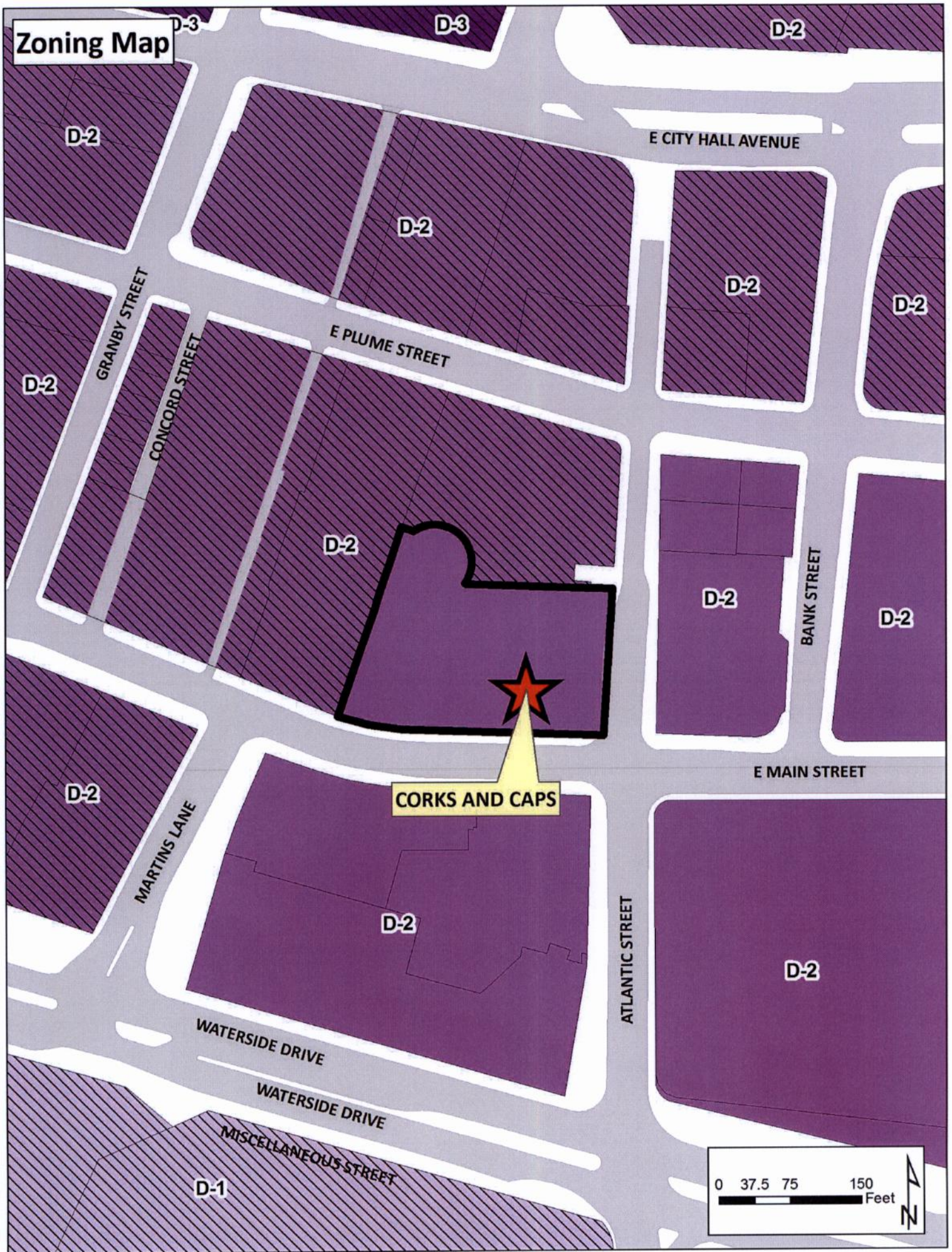


Signature of applicant/owner

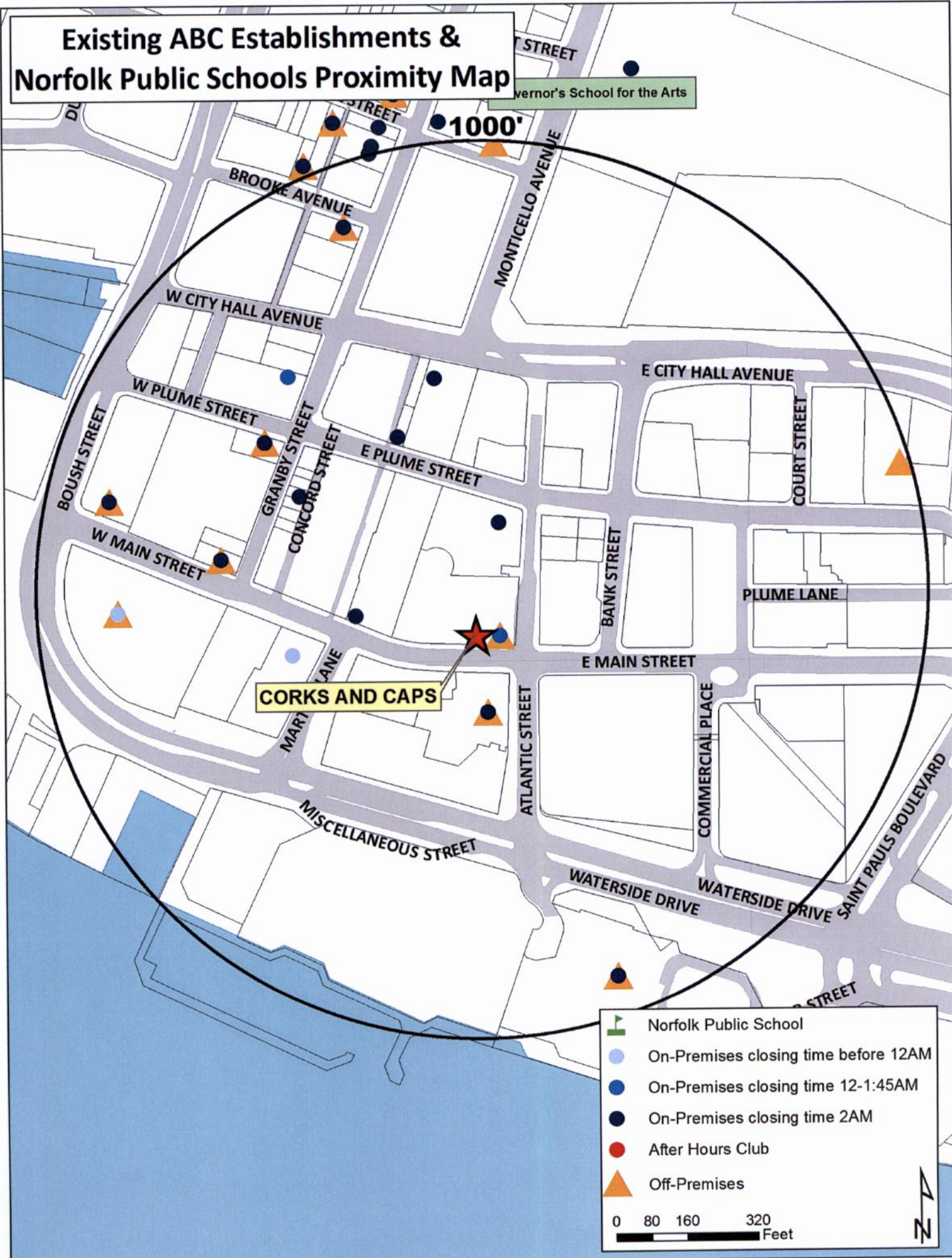
Location Map



Zoning Map



Existing ABC Establishments & Norfolk Public Schools Proximity Map



	Norfolk Public School
	On-Premises closing time before 12AM
	On-Premises closing time 12-1:45AM
	On-Premises closing time 2AM
	After Hours Club
	Off-Premises

0 80 160 320 Feet

N



**APPLICATION
ADULT USE SPECIAL EXCEPTION
ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION**

Date of Application: May 4, 2016

DESCRIPTION OF PROPERTY

Property location: (Street Number) 240 (Street Name) East Main Street

Existing Use of Property Vacant

Current Building Square Footage 1377

Proposed Use Wine and Beer Off-Premise

Proposed Building Square Footage 1377

Trade Name of Business (If applicable) Corks & Caps

APPLICANT

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) Nusbaum (First) Melanie (MI) J

Mailing address of applicant (Street/P.O. Box): 304 Bay Dunes Drive

(City) Norfolk (State) Virginia (Zip Code) 23503

Daytime telephone number of applicant (757) 348-8581 Fax (☐) n/a

E-mail address of applicant: corksandcaps@cox.net

DEPARTMENT OF CITY PLANNING
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

AUTHORIZED AGENT (if applicable)

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) (First) (MI)

Mailing address of applicant (Street/P.O. Box):

(City) (State) (Zip Code)

Daytime telephone number of applicant () Fax ()

E-mail address of applicant:

PROPERTY OWNER

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

3. Name of property owner: (Last) (First) (MI)

Mailing address of property owner (Street/P.O. box):

(City) (State) (Zip Code)

Daytime telephone number of owner () email:

CIVIC LEAGUE INFORMATION

Civic League contact:

Date(s) contacted:

Ward/Super Ward information:

REQUIRED ATTACHMENTS:

- ✓ Required application fee, **\$355.00** (if check, make payable to the City of Norfolk).
 - Application fee includes a non-refundable \$5 technology surcharge.
- ✓ One 8½ x 14 inch or 11 x 17 inch copy of a physical survey, drawn to scale and showing site conditions and improvements (including portions of the right-of-way to the curb line):
 - Existing and proposed building structures
 - Driveways
 - Parking
 - Landscaping
 - Property lines (see attached example)
- ✓ One 8½ x 14 inch or 11 x 17 inch copy of a conceptual site plan drawn to scale and showing all proposed site improvements, landscaping, drive aisles and parking with dimensions, and proposed changes to parcel/property lines (including lease lines) if applicable.
- ✓ One 8½ inch X 11 inch copy of a floor plan drawn to scale showing where cold and/or room temperature alcoholic beverages will be sold. (see attached example).
- ✓ Completed Exhibit A, Description of Operations (attached).
- ✓ Please provide a brief description of the business (i.e., # of employees, current locations, type of restaurant, etc...).

CERTIFICATION:

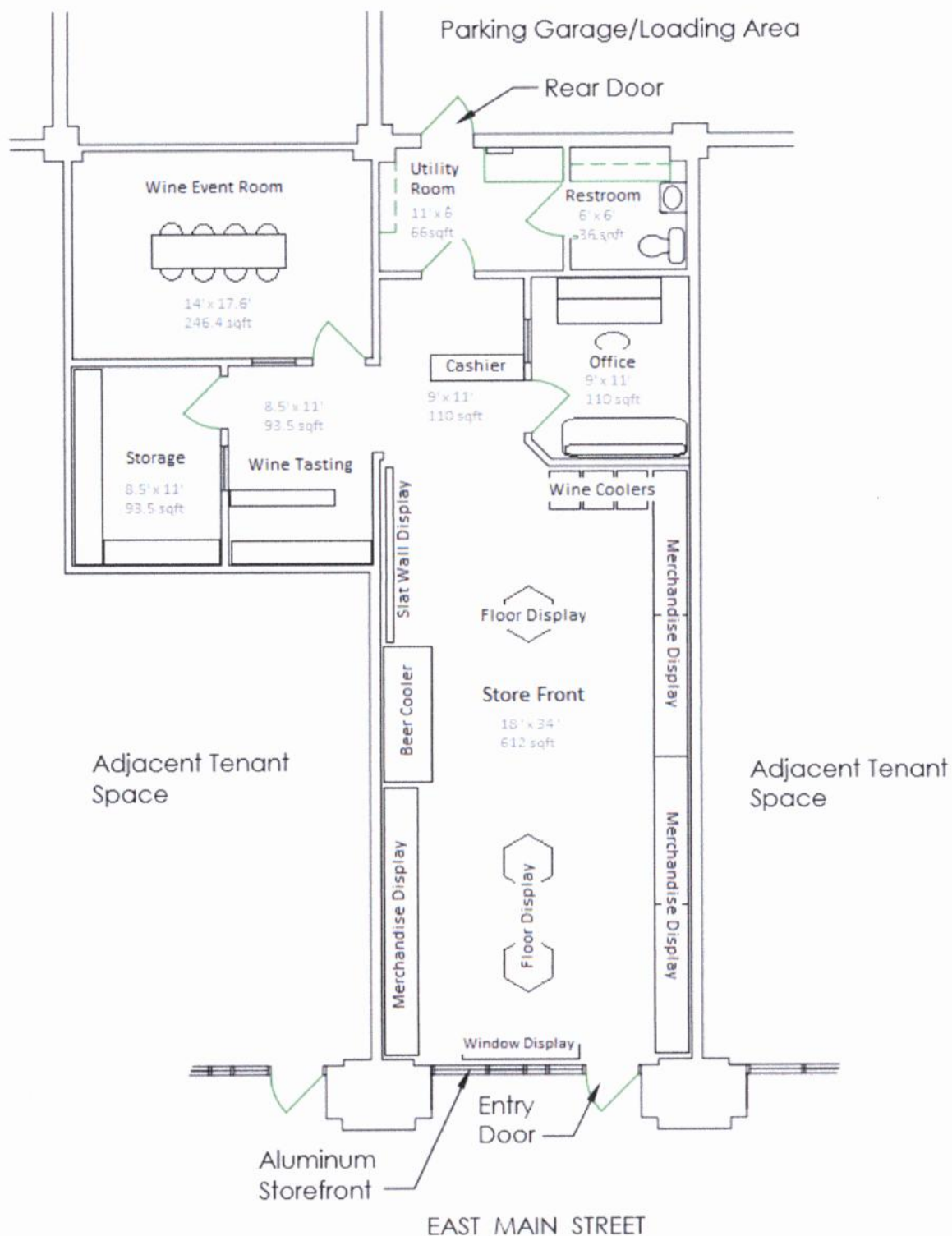
I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: Sabrina Joy Hoger Sign: Sabrina Joy-Hoger 5/19/16
(Property Owner or Authorized Agent of Signature) (Date)

Print name: Melanie Rusbach Sign: Melanie Rusbach 5-4-16
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: _____ Sign: _____ / ____ / ____
(Authorized Agent Signature) (Date)



FLOOR PLAN 1377 sqft



240 E. Main Street

Whitney, Chris

From: Straley, Matthew
Sent: Wednesday, May 11, 2016 10:44 AM
To: Miller, Mary; 'dncl@welovenorfolk.org'
Cc: Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
Subject: new Planning Commission application - 240 E Main St
Attachments: Corks&Caps.pdf

Ms. Miller and Mr. Murphy

Attached please find the application for a special exception for the sale of alcoholic beverages for off-premises consumption at 240 E. Main Street.

The item is tentatively scheduled for the June 23, 2016 Planning Commission public hearing.

Staff contact: Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank you.

Matthew Straley
GIS Technician II


City Planning
810 Union Street, Suite 508
Norfolk, VA 23510
757-664-4769

Connect with us:
www.norfolk.gov



Whitney, Chris

From: Kevin R. Murphy <krmurphy@verizon.net>
Sent: Wednesday, May 11, 2016 10:54 AM
To: Straley, Matthew; Miller, Mary; dncl@welovenorfolk.org
Cc: Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
Subject: RE: new Planning Commission application - 240 E Main St
Attachments: Corks&Caps.pdf

Matthew,

The DNCL will not object to this application.

Thanks,

Kevin

From: Straley, Matthew [mailto:Matthew.Straley@norfolk.gov]
Sent: Wednesday, May 11, 2016 10:44 AM
To: Miller, Mary <mmiller@downtownnorfolk.org>; dncl@welovenorfolk.org
Cc: Whibley, Terry <Theresa.Whibley@norfolk.gov>; Winn, Barclay <barclay.winn@norfolk.gov>; Howard, Oneiceia <Oneiceia.Howard@norfolk.gov>; Whitney, Chris <Chris.Whitney@norfolk.gov>
Subject: new Planning Commission application - 240 E Main St

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